

Peranan notaris dalam proses pendirian perseroan terbatas dalam rangka penanaman modal asing = the Notary's role in establishment of limited liability company in order to foreign direct investment

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Abstrak

Investor asing yang tertarik untuk menanamkan modalnya di Indonesia secara umum dapat dilakukan dengan cara mendirikan badan hukum yang baru atau membeli saham perseroan berbadan hukum yang sudah beroperasi, akan tetapi semua itu harus mengacu pada ketentuan atau peraturan yang berlaku yaitu Undang-Undang Penanaman Modal dan Undang-Undang Perseroan Terbatas berikut peraturan pelaksanaannya.

Pendirian Perseroan terbatas penanaman modal asing tersebut dapat ditempuh dengan cara mengikuti prosedur yang telah ditetapkan oleh Badan Koordinasi Penanaman Modal dan/atau badan lain yang telah ditetapkan untuk itu. Prosedur pertama yang harus dilakukan adalah pengajuan permohonan kepada Badan Koordinasi Penanaman Modal dengan melengkapi semua persyaratan yang telah ditentukan. Sehubungan dengan hal tersebut, Peran notaris adalah membantu pernerintah memberikan konsultasi hukum bagi para pihak yang ingin mendirikan perseroan terbatas penanaman modal asing dan membuatkan Akta Pendirian perseroan terbalas penanaman modal asing.

Metode penulisan tesis ini bersifat deskriptif, normative dan empiris terhadap prosdur yang diberlakukan dalam pendirian perseroan terbatas penanaman modal asing.

Dari penelitian tersebut diperoleh kesimpulan bahwa peran notaris dalam pendirian perseroan terbatas penanaman modal asing adalah memberikan penyuluhan hukum mengenai akta yang dibualnya, membuat berita acara rapat umum pemegang saham atau pernyataan keputusan rapat, dan mencocokkan joint venture agreement (kalau ada) dan Surat Persetujuan BKPM serta menuangkan kehendak para pihak kedalam akta pendirian sesuai ketentuan yang berlaku dan memperoleh pengesahan dari Menteri.

<hr><i>Foreign investors interested in investing their capital in Indonesia generally can invest by means of establishing new legal entities or by means of purchasing shares of companies having legal entity status which have already operated, however, all of those methods must referred to the prevailing provisions or regulations which are Capital Investment Law and Limited Liability Company Law together with their implementing regulations.

The establishment of such foreign capital investment limited liability company can be conducted by following the procedures which have been stipulated by the Capital Investrnent Coordinating Board and/or other institutions which have been stipulated for such purpose. The tirst procedure which must be conducted is the submission of proposal to the Capital Investment Coordinating Board by completing all requirements which have been stipulated. In relation to such matter, the roles of notary for the parties who wish to establish such foreign capital investment limited liability company are helping the government to provide legal consultancy in accordance with the prevailing statutory regulations as a form of consent of the parties and preparing Deed of Establishment of foreign capital investment limited liability Company.

The composing method of this thesis is descriptive, normative and empiric towards the procedures implemented in the establishment of foreign capital investment limited liability Company.

From such research, has been obtained conclusion that the roles of notary in he establishment of foreign capital investment limited liability company are providing legal consultancy, preparing agreement, and setting out the intention of the parties into the deed of establishment, preparing Minutes of General Meeting of Shareholders or Statement of Resolutions of Meeting for the change of status from ordinary limited liability company to become foreign capital investment limited liability company in accordance with the prevailing provisions and obtaining legalization from the Minister.</i>